

EXHIBIT HH

Citizens Complaint Against [REDACTED] Date of Occurrence September 7, 2008

**CITIZEN'S COMPLAINT FORM**

Citizen Complainant: [REDACTED]  
Age: 22      DOB: [REDACTED]  
Address: [REDACTED]  
Today's Date:  
Date of Occurrence: September 7, 2008  
Time of Occurrence: 0230  
Location of Occurrence: 1031 Main Street  
Officer(s) Involved: Officer [REDACTED]  
Officer Taking Complaint: Sgt. [REDACTED]

**Narrative of Complaint:**

On September 7, 2008 at approximately 0230 hours, [REDACTED] was on the parking lot of Woody's at 1031 Main Street. [REDACTED] had been inside the club and left it at around closing time. [REDACTED] was being picked up by her younger sister [REDACTED]. The two sisters were waiting for a friend known to them as "T". Also on the parking lot were several members of an out-of-town semipro football team as well as other club patrons. An officer, believed to be Officer [REDACTED] approached the women and ordered them to leave the parking lot. The women explained they were waiting for "T" and would leave as soon as she got to the car. The officer then moved on to members of the football team who were standing near a team van. The officer ordered the football team members to leave the area. The players explained that they were waiting for their coach, who had the keys to the van. One of the football players was sprayed in the face with pepper spray. The officers then again ordered him to leave. The man explained that he was blinded by the spray and had nowhere to go. A second player went to the assistance of the first. He too was ordered to leave. The players again told the officers they were waiting on their coach. Officer [REDACTED] who was armed with a pepperball gun, then began firing at the second player. The second player was covered with the powder from the pepperballs and was now blinded. The officers continued firing at him and ordering him to leave. [REDACTED] then grabbed the second player and helped him into the rear driver's side of her car. The team's coach arrived and got into the passenger side rear. [REDACTED] then began to drive across the lot in an effort to leave. Officer [REDACTED] followed the car across the lot and continued to fire pepperballs into the car through the rear driver's side window. Several of the pepperballs exploded inside the car, covering the occupants with powder. [REDACTED] was blinded by the powder and she began having an asthmatic reaction to the powder. She stopped the car on the lot and exited it while [REDACTED] placed the car in park. The football player exited the backseat and collapsed in front of the car. [REDACTED] told the officers to call an ambulance for her sister and the officers claimed [REDACTED] was "faking" it. An officer did however request an ambulance. An ambulance arrived sometime later and transported [REDACTED] to the hospital. [REDACTED] left and drove to her mother's house. The players and

coach left together. [REDACTED] and her mother [REDACTED] returned to Woody's and spoke with several of the officers on scene.

[REDACTED] feels the use of the pepper spray canister and pepperball launchers was unnecessary and excessive. [REDACTED] said there were no fights going on and the football players were not causing a problem; they were simply waiting for their ride when the officers began spraying the men. [REDACTED] said that although she and her sister tried to comply with the officers' orders to leave, Officer [REDACTED] continued to fire several more pepperballs into her moving car. This created a dangerous situation in which the driver of a moving vehicle on a crowded parking lot was incapacitated by the pepper balls. [REDACTED] said it was apparent that Officer [REDACTED] was targeting the second player. No one was arrested although the second player could have been easily taken into custody while he was lying on the ground.

I, [REDACTED], affirm under the penalties of perjury that the foregoing representations are true and correct to the best of my knowledge.

STATE OF INDIANA ).  
COUNTY OF VANDERBURGH )  
CITY OF EVANSVILLE )

SS: \_\_\_\_\_  
Signature of Complainant

SS: \_\_\_\_\_  
Signature of Complainant

SUBSCRIBED AND SWORN to before me a Notary Public, in and for said City, County, and State,

This \_\_\_\_\_ day of \_\_\_\_\_, 2008

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

Residence of Notary Public: Vanderburgh County, Indiana  
\_\_\_\_\_

### Formal Complaint Synopsis

**Formal Complaint #: 08-IAD-013**

**Complainant:** [REDACTED]

**Accused Officer(s): Officer** [REDACTED]

**Nature of Complaint: Excessive Force**

#### **Complainant's Statement:**

On September 7, 2008 at approximately 0230 hours, [REDACTED] was on the parking lot of Woody's at 1031 Main Street. [REDACTED] had been inside the club and left it at around closing time. [REDACTED] was being picked up by her younger sister [REDACTED]. The two sisters were waiting for a friend known to them as "T". Also on the parking lot were several members of an out-of-town semipro football team as well as other club patrons. An officer, believed to be Officer [REDACTED], approached the women and ordered them to leave the parking lot. The women explained they were waiting for "T" and would leave as soon as she got to the car. The officer then moved on to members of the football team who were standing near a team van. The officer ordered the football team members to leave the area. The players explained that they were waiting for their coach, who had the keys to the van. One of the football players was sprayed in the face with pepper spray by a police officer. The officers then again ordered him to leave. The man explained that he was blinded by the spray and had nowhere to go. A second player went to the assistance of the first. He too was ordered to leave. The players again told the officers they were waiting on their coach. Officer [REDACTED] who was armed with a pepperball gun, then began firing at the second player. The second player was covered with the powder from the pepperballs and was now blinded. The officers continued firing at him and ordering him to leave. [REDACTED] then grabbed the second player and helped him into the rear driver's side of her car. The team's coach arrived and got into the passenger side rear. [REDACTED] then began to drive across the lot in an effort to leave. Officer [REDACTED] followed the car across the lot and continued to fire pepperballs into the moving car through the rear driver's side window. Several of the pepperballs exploded inside the car, covering the occupants with powder. [REDACTED] was blinded by the powder and she began having an asthmatic reaction to the powder. She stopped the car on the lot and exited it while [REDACTED] placed the car in park. The football player exited the back seat and collapsed in front of the car. [REDACTED] told the officers to call an ambulance for her sister and the officers claimed [REDACTED] was "faking" it. An officer did however request an ambulance. An ambulance arrived sometime later and transported [REDACTED] to the hospital. [REDACTED] left and drove to her mother's house. The players and coach left together. [REDACTED] and her mother [REDACTED] returned to Woody's and spoke with several of the officers on scene.

[REDACTED] feels the use of the pepper spray canister and pepperball launchers was unnecessary and excessive. [REDACTED] said there were no fights going on and the football players were not causing a problem; they were simply waiting for their ride when the officers began spraying the men. [REDACTED] said that although she and her sister tried to comply with the officers' orders to leave, Officer [REDACTED] continued to fire several more pepperballs into her moving car. This created a dangerous situation in which the driver of a moving vehicle on a crowded parking lot was incapacitated by the pepper balls. Shaquita said it was apparent that Officer [REDACTED] was targeting the second player. No one was arrested although the second player could have been easily taken

into custody while he was lying on the ground.

**Note:** If the charges held in this complaint are found to have substance and were to be subsequently sustained, the accused Officer(s) could be in violation of certain rules, regulations and procedures of the Department as follows:

**Count 1:**

**EPD Rules & Regulations: Article 2 – Conduct which may result in the imposition of discipline.**

**Chapter 5 – Use of Force**

**Section 1: Generally**

“A member may use force, including deadly force, only when legally justified and when all other reasonable means of accomplishing a lawful police purpose have failed, or when a member reasonably believes that no other method can accomplish his intended purpose.”

**Count 2:**

**EPD Rules & Regulations: Article 2 – Conduct which may result in the imposition of discipline.**

**Chapter 3 - Neglect of Duty**

**Sub-section 4 - Failure to follow the standard operating procedures of the department to wit: SOP 359.00 Use of Force**

**Use of Less-Lethal Force**

**1. Policy**

Use of less-lethal force by an officer is permitted in situations where the officer is attacked or resisted by someone using less-lethal force. Less-lethal force should be commensurate with that force or resistance encountered by the officer. It should be such that it will allow the officer to quickly overcome the force or resistance used against him but not so great as to pose a danger of serious bodily injury or death in a situation where there was no such threat to the officer.

**2. Less-Lethal Intermediate Weapons**

Less-lethal intermediate weapons or control devices will only be used for an officer's defense, defense of the general public, and to effect the arrest or lawful custody of any individual who physically resists a lawful arrest or order to take him into custody. Only that amount of force necessary to overcome an attack or physical resistance will be used. Only those less-lethal weapons and control devices authorized by the Chief of Police will be carried and used in any official capacity